

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

BRIAN P. ROY,

Plaintiff,

v.

Case No. 12-13825

BANK OF AMERICA,

Defendant.

ORDER GRANTING DEFENDANT'S MOTION TO DISMISS

Plaintiff, Brian P. Roy, sued Defendant, Bank of America, in a state small claims court. Plaintiff's affidavit and claim (the small claims court's equivalent of a complaint) alleges that Defendant violated two federal statutes, the Fair Debt Collection Practices Act and the Fair Credit Reporting Act. Defendant therefore removed, invoking federal-question jurisdiction. Although the action began in small claims court—Plaintiff seeks only \$3,000—Defendant may remove, as federal-question jurisdiction entails no minimum amount in controversy. *See generally* R. Fallon, J. Manning, D. Meltzer, & D. Shapiro, *Hart & Wechsler's The Federal Courts and the Federal System* 743-47 (6th ed. 2009) (discussing the rise and fall of the federal-question jurisdiction's amount in controversy requirement).

Defendant then moved to dismiss, and Plaintiff has submitted no response. A complaint must allege facts—the who, what, where, when, and how of the alleged wrong—that establish the plausibility of a claim for relief. *Ashcroft v. Iqbal*, 556 U.S.

662, 678 (2009); *Carrier Corp. v. Outokumpu Oyj*, 673 F.3d 430, 444-45 (6th Cir. 2012).

The affidavit and claim asserts conclusions but alleges no pertinent facts. Accordingly,

IT IS ORDERED that Defendant's motion to dismiss [Dkt. # 3] is GRANTED in that the complaint (that is, the affidavit and claim) is DISMISSED WITHOUT PREJUDICE.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: October 11, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, October 11, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522